



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,097	01/18/2006	Marijke De Meyer	505217	7358
53609 7590 03/17/2011 REINHART BOERNER VAN DEUREN P.C. 2215 PERRYGREEN WAY ROCKFORD, IL 61107				
EXAMINER WALTERS JR, ROBERT S				
ART UNIT		PAPER NUMBER		
1711				
NOTIFICATION DATE		DELIVERY MODE		
03/17/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RockMail@reinhardtllaw.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/565,097

Applicant(s)

DE MEYER ET AL.

Examiner

ROBERT S. WALTERS JR

Art Unit

1711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 13-18, 20, 22, 23 and 25-27.
Claim(s) withdrawn from consideration: 19, 21 and 24.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Michael Barr/
Supervisory Patent Examiner, Art Unit 1711

/ROBERT S. WALTERS JR/
Examiner, Art Unit 1711

Continuation of 11, does NOT place the application in condition for allowance because: The applicant first argues that Bretez does not teach the diffusion of an additional element into the zinc layer. However, as noted by the applicant the iron diffuses into the zinc over a small distance. While this may be a small distance, the claim only requires a step of diffusing to form an intermetallic compound. This small diffusion reads upon the claim as presented, as the claim does not require any defined level of diffusion, and therefore Bretez can not be said to teach away from diffusing an additional metallic element into the zinc layer. Furthermore, the primary reference, Goedicke, actually teaches diffusing an additional element into the zinc layer. Therefore, the examiner maintains that the combination of references make clear a step of diffusing an additional element into the zinc layer. Additionally, the applicant argues that Bretez's treatment is conducted on a still molten zinc layer, and that a cleaning and activation step could not take place on this zinc layer. However, it should be noted that the primary reference (Goedicke) teaches a solid zinc layer that is activated by a plasma followed by diffusion of an additional metallic element by a heat treatment. The Bretez reference is simply being applied to disclose that IR heating can actually be used as a substitute for a thermal treatment in a diffusion process. While Bretez teaches a diffusion into a molten layer, the examiner contends that one would also expect this heating to be appropriate to accomplish the diffusion in Goedicke's process (note that Goedicke only requires a thermal treatment of between 300-400 C for 4 seconds (1st paragraph, page 2 and 1st paragraph of page 3). Furthermore, the applicant's have not provided an argument as to why this heat treatment would not be sufficient in Goedicke's process which only needs a short heating cycle at between 300-400 C. Furthermore, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).